GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Prohibition and Excise Department – Allegation of Criminal Misconduct and Criminal Conspiracy against Sri D.RamSuresh, Retired Asst P&E Supdt., Vijayawada – Retired on attaining the age of superannuation on 29.02.2020 - Request for Encashment of Earned Leave - Sanction accorded – Orders - Issued.

REVENUE (VIGILANCE.IV) DEPARTMENT

G.O.RT.No. 505 **Dated: 10-08-2021**

Read the following:-

1. From the D.G., ACB, A.P., Lr.No.Rc.No.63/RCO-REG/2012, dt.06.11.2012 (Cr.No.3/RCO-RJY/2012,dt.15.04.2012).
2. From the D.G., ACB, A.P., Lr.No.Rc.No.55/RCO-VKI/2012, dt.06.11.2012 (Cr.No.4/RCO-ACB-VJA/2012, dt.nil).
3. Govt. Memo No.49990/Vig.V(2)/2012-1, dated 16.01.2013.
4. Govt. Memo No.49988/Vig.V(2)/2012-1, dated 16.01.2013.
5. G.O.Rt.No.258, Rev. (Vig.IV) Dept., dt. 10.05.2021.

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ORDER:

Whereas the Anti-Corruption Bureau authorities have registered cases under Prevention of Corruption Act, 1988 against certain Prohibition & Excise Officials on the allegations of criminal misconduct and corruption for their involvement in liquor syndicate cases.

2. And whereas, in the reference 1st & 2nd read above, the Director General, Anti- Corruption Bureau while furnishing surprise check reports in the cases recommended to place Sri D.Ram Suresh, Retired Assistant Prohibition & Excise Superintendent, Vijayawada on his defense before Tribunal for Disciplinary proceedings, as he was involved in both the liquor syndicate cases of East Godavari and Krishna districts.

3. And whereas, after following due procedure and after obtaining orders from the competent authority, both of his cases were entrusted to Tribunal for Disciplinary proceedings in the references 3rd & 4th read above and the Tribunal for Disciplinary proceedings has issued charge memos in TEC No.58 of 2013, Dt.06.01.2015 & TEC No.305 of 2013, dated 03.08.2018 and the inquiry is under process.

4. And whereas, he has fled W.P.No.5513/2021 before the Hon'ble High Court of Andhra Pradesh at Amaravati with a prayer to issue to a Writ Order Or Direction more particularly one in the nature of Writ of Mandamus declare the action of the Respondents in withholding the Retirement benefits of the petitioner in the absence of any valid disciplinary proceedings as on today and the Charge Memos in TEC No 58/2013 dated 612015 and TEC NO 305 of 2013 dated 382018 issued by the 3rd respondent the same Stands Quashed by this Hon'ble High Court vide Orders passed in W.P.Nos.1255 and 1243 of 2020 dated 2312020 as illegal arbitrary and discriminatory and in violation of Articles 21 and 300A of the Constitution of India consequently direct the respondents to release all the Pensionary Benefits namely Full Pension Retirement Gratuity and Encasement of Earned Leave and other benefits together with 12percent interest from the date of Retirement to the petitioner immediately on the same analogy of Similar orders passed in W P No 850 of 2021 dated 2912021.

5. And whereas, the Hon'ble High Court of Andhra Pradesh at Amaravati has passed the following order dated.08.03.2021 in W.P No.5513 of 2021:

> " It is brought to the notice of this Court by the learned counsel for the petitioner that in identical matter this Court in W.P.No.850 of 2021 has allowed the writ petition by its order dated 29.01.2021 granting a writ of mandamus declaring the action of the respondents as illegal, arbitrary and violation of Articles 21 and 300A of the constitution of India and the 1st respondent is directed to fix the pension payable to the petitioner and pay the retirement benefits such as full pension, retirement gratuity, encashment of Earned Leave and other benefits to the petitioner together with interest at 12% from the date they become due till the date of payment.

Contd.,2

Having heard the submissions of the learned counsel for the petitioner and upon perusing the material available on record, this Court satisfied that the grievance raised by the petitioner in the present writ 2 petition and the facts of the case in W.P.No.850 of 2021 are one and the same.

Accordingly, this writ petition is allowed in terms of the order passed by this Court on 29.01.2021 in W.P.No.850 of 2021."

The Hon'ble High Court of Andhra Pradesh at Amaravati has passed the following judgment dt. 2021-01-29 in W.P.No.850 of 2021 :

"33. In the instant case on hand, except reduction of pensionary benefts under Rule 9 of the Andhra Pradesh Revised Pension Rules and reduction of salary in terms of C.C.A Rules, if the government servant is found guilty of misconduct after conducting necessary enquiry, no other procedure is available in any statute to defer payment of leave salary, pension or leave salary or pension in part or in full. But the charges against the petitioner are quashed vide Orders passed in W.P.Nos.14565, 14566 and 14565 of 2019, dated 25.09.2019. Therefore, nonpayment of leave salary and pension to retired employees is deprivation of a citizen in right to property. Such deprivation is violative of fundamental rights guaranteed under Article 21 and Constitutional Right to property under Article 300-A of the Constitution of India and Human Rights of livelihood as per Article 25(1) of Universal Declaration of Human Rights, since the government servants after retirement being pensioners would be deprived of their livelihood, though they are under obligation to meet different expenses, including maintaining their health condition for the rest of their life.

34. Though the learned Government Pleader for Services-I fled a memo stating that an appeal is preferred by the Deputy Superintendent of Police, A.C.B, Guntur against the order dated 25.09.2019 passed by this Court in W.P.No.14565/2019, as on date, there is absolutely no stay of operation of the order passed by this Court. Mere fling of appeal by the Deputy Superintendent of Police, A.C.B, Guntur would not operate as stay automatically.

35. The locus standi of the Deputy Superintendent of Police, A.C.B, Guntur, is now questioned, as the W.A.No.36/2021 was already dismissed by this Division Bench of this Court on 25.01.2021. But, this Court cannot decide the locus standi of the Deputy Superintendent of Police, A.C.B, Guntur in fling writ appeal before the Division Bench of this Court, without hearing the Deputy Superintendent of Police in appropriate proceedings. Therefore, leaving it open to the petitioner to raise all these issues in the writ appeal fled before the Division Bench of this Court, if it is registered and the contention of the petitioner is rejected for the present.

36. In the result, the writ petition is allowed granting writ of Mandamus, declaring the action of the respondents is illegal, arbitrary and violative of Articles 21 and 300A of the Constitution of India and the 1st respondent is directed to fix the pension payable to the petitioner and pay the retirement benefits such as full pension, retirement gratuity, encashment of Earned Leave and other benefits to the petitioner together with interest at 12% from the date they become due till the date of payment. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed."

6. And Whereas, Government have accorded sanction for provisional pension @ 55% (seventy five percent only) of normal pension entitled under Rule 52 of Andhra Pradesh Revised Pension Rules, 1980 to him, as he was retired on 28.02.2018, pending finalization of disciplinary proceedings initiated against him in ref. 5th read above. However, the payment of Death-cum-Retirement Gratuity and other pensionary benefits admissible to the above Retired Officer shall be kept in abeyance till the final orders issued in disciplinary proceedings pending against him as per existing rules.

7. Government after careful examination of the matter and in pursuance of the orders in W.P.No.5513 of 2021 passed by the Hon'ble High Court of Andhra Pradesh at Amaravati hereby accord sanction for encashment of Earned Leave to Sri D.RamSuresh, Retired Assistant Prohibition & Excise Superintendent, Vijayawada.

Contd.,3

8. The Commissioner of Prohibition and Excise shall take further necessary action accordingly and furnish compliance report.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

RAJAT BHARGAVA
SPECIAL CHIEF SECRETARY TO GOVERNMENT (CT, EXCISE & R&S)

To
Sri D.Ram Suresh, Retired Assistant Prohibition & Excise Superintendent, Vijayawada through the Commissioner, Prohibition and Excise Department, Andhra Pradesh, Vijayawada.
The Commissioner, Prohibition and Excise Department, Andhra Pradesh, Vijayawada.

Copy to:

The Government Pleader for Services-I, High Court of Andhra Pradesh at Amaravati.
The Director General, Anti-Corruption Bureau, Andhra Pradesh, Vijayawada.
The Accountant General of Andhra Pradesh, Hyderabad.
The Directorate of Treasuries & Accounts, Andhra Pradesh, Vijayawada.
Sc/Sf.

//FORWARDED:: BY ORDER//

SECTION OFFICER